IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO. 1436 OF 2004

IN

FIRST APPEAL NO. 1176 OF 1997

PESI CHINKU FRAM POCHA .. APPLICANT

Versus

M/S. POCHA SEEDS PVT. LTD. .. RESPONDENT

Mr. A. M. Joshi for applicant

Mr. Pawankar for S. M. Gorwadkar for R

CORAM:-SMT. RANJANA DESAI, J.

DATED:-21-2-2005

P.C.

First Appeal No. 1176 of 1997 is filed by original defendant in Special Civil Suit No. 807 of 1985 which was decreed by the Civil Judge, Senior Division, Pune on 11///8/1997. That suit was filed by the respondent herein.

2. It appears that the appellant had filed a suit for possession in the Small Causes Court at Pune being Civil Suit No. 712 of 1984. On an application made by the respondent herein, the said suit was transferred to the court of Civil Judge Senior Division, Pune and was renumbered as R.C.S. No. 33 of 1987. It is an admitted position that from a decree passed in R.C.S. No. 33 of 1987 an appeal has been filed by the present appellant being Appeal No. 83 of 1998 and it is pending in the District Court at Pune. It is prayed in this civil application that in view of the fact that the appeal pending in the District Court at Pune being Appeal No. 83 of 1998 and the present appeal pertain to the same subject matter and since the parties involved are the same, appeal pending in the District court, Pune be withdrawn from the District Court, Pune to this court under Section 24(1)(b)(i) of the Code of Civil Procedure, and it be heard along with First Appeal No. 1176 of 1997.

3. I have heard the learned counsel for the respondent. He has no objection to such a prayer being granted as it is convenient for both sides and hence the following order:

> "Appeal No. 83 of 1988 pending on the file of District Court, Pune is withdrawn from the file of that court to this court. The office is directed to tag Appeal No. 83/88 to First Appeal No. 1176 of 1997. Both these appeals shall be heard by this court together.

4. Appellant is permitted to supply private paper book within a period of four months from today.

5. Civil Application No. 1435 of 2004 is for adding grounds to appeal No. 1176 of 1997. That civil application will be heard along with this appeal.

6. The present civil application is disposed of in the aforestated terms.

.....